



General Assembly

Amendment

January Session, 2015

LCO No. 7861



Offered by:

REP. TERCYAK, 26th Dist.

SEN. GOMES, 23rd Dist.

REP. CUEVAS, 75th Dist.

SEN. OSTEN, 19th Dist.

To: House Bill No. **6936**

File No. 239

Cal. No. 170

"AN ACT CONCERNING EMPLOYEE WORKING CONDITIONS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 31-57r of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective January 1, 2016*):

5 As used in this section and sections 31-57s to 31-57w, inclusive, as
6 amended by this act:

7 (1) "Child" means a biological, adopted or foster child, stepchild,
8 legal ward of [a service worker] an employee, or a child of [a service
9 worker] an employee standing in loco parentis, who is (A) under
10 eighteen years of age; or (B) eighteen years of age or older and
11 incapable of self-care because of a mental or physical disability;

12 [(2) "Day or temporary worker" means an individual who performs
13 work for another on (A) a per diem basis, or (B) an occasional or
14 irregular basis for only the time required to complete such work,
15 whether such individual is paid by the person for whom such work is
16 performed or by an employment agency or temporary help service, as
17 defined in section 31-129;]

18 (2) "Chain business" means any group of businesses that (A) share a
19 common owner or principal owning not less than thirty per cent of
20 each business, and (B) (i) engage in the same business, or (ii) operate
21 pursuant to a written franchise agreement or arrangement as described
22 in subsection (b) of section 42-133e;

23 (3) "Employee" means an individual engaged in service to an
24 employer in the business of the employer;

25 (4) "Employer" means any person, firm, business, chain business,
26 educational institution, nonprofit agency, corporation, limited liability
27 company or other entity that employs [fifty] ten or more individuals in
28 the state, which shall be determined based on such person's, firm's,
29 business', chain business', educational institution's, nonprofit agency's,
30 corporation's, limited liability company's or other entity's payroll for
31 the week containing October first, annually. "Employer" does not
32 include [: (A) Any] any business establishment classified in sector 31,
33 32 or 33 in the North American Industrial Classification System; [, or
34 (B) any nationally chartered organization exempt from taxation under
35 Section 501(c)(3) of the Internal Revenue Code of 1986, or any
36 subsequent corresponding internal revenue code of the United States,
37 as from time to time amended, that provides all of the following
38 services: Recreation, child care and education;]

39 (5) "Family member" means a spouse, child, sibling, parent,
40 grandparent or grandchild and includes stepparents, stepchildren,
41 stepsiblings and adoptive relationships;

42 [(5)] (6) "Family violence" has the same meaning as provided in

43 section 46b-38a;

44 [(6)] (7) "Retaliatory personnel action" means any termination,
45 suspension, constructive discharge, demotion, unfavorable
46 reassignment, refusal to promote, disciplinary action or other adverse
47 employment action taken by an employer against an employee; [or a
48 service worker;]

49 [(7) "Service worker" means an employee primarily engaged in an
50 occupation with one of the following broad or detailed occupation
51 code numbers and titles, as defined by the federal Bureau of Labor
52 Statistics Standard Occupational Classification system or any successor
53 system: (A) 11-9050 Food Service Managers; (B) 11-9110 Medical and
54 Health Services Managers; (C) 21-1020 Social Workers; (D) 21-1093
55 Social and Human Service Assistants; (E) 21-1094 Community Health
56 Workers; (F) 21-1099 Community and Social Service Specialists, All
57 Other; (G) 25-4020 Librarians; (H) 29-1050 Pharmacists; (I) 29-1070
58 Physician Assistants; (J) 29-1120 Therapists; (K) 29-1140 Registered
59 Nurses; (L) 29-1150 Nurse Anesthetists; (M) 29-1160 Nurse Midwives;
60 (N) 29-1170 Nurse Practitioners; (O) 29-2020 Dental Hygienists; (P) 29-
61 2040 Emergency Medical Technicians and Paramedics; (Q) 29-2050
62 Health Practitioner Support Technologists and Technicians; (R) 29-2060
63 Licensed Practical and Licensed Vocational Nurses; (S) 31-1011 Home
64 Health Aides; (T) 31-1012 Nursing Aides, Orderlies and Attendants;
65 (U) 31-1013 Psychiatric Aides; (V) 31-9091 Dental Assistants; (W) 31-
66 9092 Medical Assistants; (X) 33-9032 Security Guards; (Y) 33-9091
67 Crossing Guards; (Z) 35-1010 Supervisors of Food Preparation and
68 Serving Workers; (AA) 35-2010 Cooks; (BB) 35-2020 Food Preparation
69 Workers; (CC) 35-3010 Bartenders; (DD) 35-3020 Fast Food and
70 Counter Workers; (EE) 35-3030 Waiters and Waitresses; (FF) 35-3040
71 Food Servers, Nonrestaurant; (GG) 35-9010 Dining Room and Cafeteria
72 Attendants and Bartender Helpers; (HH) 35-9020 Dishwashers; (II) 35-
73 9030 Hosts and Hostesses, Restaurant, Lounge and Coffee Shop; (JJ)
74 35-9090 Miscellaneous Food Preparation and Serving Related Workers;
75 (KK) 37-2011 Janitors and Cleaners, Except Maids and Housekeeping

76 Cleaners; (LL) 37-2019 Building Cleaning Workers, All Other; (MM)
77 39-3030 Ushers, Lobby Attendants and Ticket Takers; (NN) 39-5010
78 Barbers, Hairdressers, Hairstylists and Cosmetologists; (OO) 39-6010
79 Baggage Porters, Bellhops and Concierges; (PP) 39-9010 Child Care
80 Workers; (QQ) 39-9021 Personal Care Aides; (RR) 41-1010 First-Line
81 Supervisors of Sales Workers; (SS) 41-2011 Cashiers; (TT) 41-2021
82 Counter and Rental Clerks; (UU) 41-2030 Retail Salespersons; (VV) 43-
83 3070 Tellers; (WW) 43-4080 Hotel, Motel and Resort Desk Clerks; (XX)
84 43-4170 Receptionists and Information Clerks; (YY) 43-5020 Couriers
85 and Messengers; (ZZ) 43-6010 Secretaries and Administrative
86 Assistants; (AAA) 43-9010 Computer Operators; (BBB) 43-9020 Data
87 Entry and Information Processing Workers; (CCC) 43-9030 Desktop
88 Publishers; (DDD) 43-9040 Insurance Claims and Policy Processing
89 Clerks; (EEE) 43-9050 Mail Clerks and Mail Machine Operators, Except
90 Postal Service; (FFF) 43-9060 Office Clerks, General; (GGG) 43-9070
91 Office Machine Operators, Except Computer; (HHH) 43-9080
92 Proofreaders and Copy Markers; (III) 43-9110 Statistical Assistants; (JJJ)
93 43-9190 Miscellaneous Office and Administrative Support Workers;
94 (KKK) 51-3010 Bakers; (LLL) 51-3020 Butchers and Other Meat, Poultry
95 and Fish Processing Workers; (MMM) 51-3090 Miscellaneous Food
96 Processing Workers; (NNN) 53-3010 Ambulance Drivers and
97 Attendants, Except Emergency Medical Technicians; (OOO) 53-3020
98 Bus Drivers; (PPP) 53-3040 Taxi Drivers and Chauffeurs; or (QQQ) 29-
99 2034 Radiologic Technologists, and is (i) paid on an hourly basis, or (ii)
100 not exempt from the minimum wage and overtime compensation
101 requirements of the Fair Labor Standards Act of 1938 and the
102 regulations promulgated thereunder, as amended from time to time.
103 "Service worker" does not include day or temporary workers;]

104 (8) "Sexual assault" means any act that constitutes a violation of
105 section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53a-73a;

106 (9) "Spouse" means a husband or wife, as the case may be; and

107 (10) "Year" means any three-hundred-sixty-five-day period used by
108 an employer to calculate employee benefits.

109 Sec. 2. Section 31-57s of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective January 1, 2016*):

111 (a) Each employer shall provide paid sick leave annually to each of
112 such employer's [service workers] employees in the state. Such paid
113 sick leave shall accrue (1) beginning January 1, 2012, or for [a service
114 worker] an employee hired after said date, beginning on the [service
115 worker's] employee's date of employment, (2) at a rate of one hour of
116 paid sick leave for each forty hours worked by [a service worker] an
117 employee, and (3) in one-hour increments up to a maximum of [forty]
118 fifty-six hours per year. Each [service worker] employee shall be
119 entitled to carry over up to [forty] fifty-six unused accrued hours of
120 paid sick leave from the current year to the following year, but no
121 [service worker] employee shall be entitled to use more than the
122 maximum number of accrued hours, as described in subdivision (3) of
123 this subsection, in any year.

124 (b) [A service worker] An employee shall be entitled to the use of
125 accrued paid sick leave upon the completion of [the service worker's
126 six-hundred-eightieth hour] one hundred twenty calendar days of
127 employment from January 1, 2012, if the [service worker] employee
128 was hired prior to January 1, 2012, or if hired after January 1, 2012,
129 upon the completion of [the service worker's six-hundred-eightieth
130 hour] one hundred twenty calendar days of employment from the date
131 of hire, unless the employer agrees to an earlier date. [A service
132 worker] An employee shall not be entitled to the use of accrued paid
133 sick leave if [such service worker] he or she did not work an average of
134 ten or more hours per week for the employer in the most recent
135 complete quarter.

136 (c) An employer shall be deemed to be in compliance with this
137 section if the employer offers any other paid leave, or combination of
138 other paid leave that (1) may be used for the purposes of section 31-57t,
139 as amended by this act, and (2) is accrued in total at a rate equal to or
140 greater than the rate described in subsections (a) and (b) of this section.
141 For the purposes of this subsection, "other paid leave" may include, but

142 not be limited to, paid vacation, personal days or paid time off.

143 (d) Each employer shall pay each [service worker] employee for
144 paid sick leave at a pay rate equal to the greater of either (1) the normal
145 hourly wage for that [service worker] employee, or (2) the minimum
146 fair wage rate under section 31-58 in effect for the pay period during
147 which the employee used paid sick leave. For any [service worker]
148 employee whose hourly wage varies depending on the work
149 performed by the [service worker] employee, "normal hourly wage"
150 means the average hourly wage of the [service worker] employee in
151 the pay period prior to the one in which [the service worker] he or she
152 used paid sick leave.

153 (e) Notwithstanding the provisions of this section and sections 31-
154 57t to 31-57w, inclusive, as amended by this act, and upon the mutual
155 consent of the [service worker] employee and employer, [a service
156 worker] an employee who chooses to work additional hours or shifts
157 during the same or following pay period, in lieu of hours or shifts
158 missed, shall not use accrued paid sick leave.

159 (f) No employer shall (1) terminate any employee, (2) dismiss any
160 employee, or (3) transfer any employee from one worksite to another
161 solely in order to not qualify as an employer, as defined in section 31-
162 57r, as amended by this act.

163 Sec. 3. Section 31-57t of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective January 1, 2016*):

165 (a) An employer shall permit [a service worker] an employee to use
166 the paid sick leave accrued pursuant to section 31-57s, as amended by
167 this act:

168 (1) For (A) [a service worker's] an employee's illness, injury or
169 health condition, (B) the medical diagnosis, care or treatment of [a
170 service worker's] an employee's mental illness or physical illness,
171 injury or health condition, or (C) preventative medical care for [a
172 service worker] an employee;

173 (2) For (A) [a service worker's child's or spouse's] an employee's
174 family member's illness, injury or health condition, (B) the medical
175 diagnosis, care or treatment of [a service worker's child's or spouse's]
176 an employee's family member's mental or physical illness, injury or
177 health condition, or (C) preventative medical care for a [child or
178 spouse of a service worker] family member of the employee; and

179 (3) Where [a service worker] an employee is a victim of family
180 violence or sexual assault (A) for medical care or psychological or
181 other counseling for physical or psychological injury or disability, (B)
182 to obtain services from a victim services organization, (C) to relocate
183 due to such family violence or sexual assault, or (D) to participate in
184 any civil or criminal proceedings related to or resulting from such
185 family violence or sexual assault.

186 (b) If [a service worker's] an employee's need to use paid sick leave
187 is foreseeable, an employer may require advance notice, not to exceed
188 seven days prior to the date such leave is to begin, of the intention to
189 use such leave. If [a service worker's] an employee's need for such
190 leave is not foreseeable, an employer may require [a service worker] an
191 employee to give notice of such intention as soon as practicable. For
192 paid sick leave of three or more consecutive days, an employer may
193 require reasonable documentation that such leave is being taken for
194 one of the purposes permitted under subsection (a) of this section. If
195 such leave is permitted under subdivision (1) or (2) of subsection (a) of
196 this section, documentation signed by a health care provider who is
197 treating the [service worker] employee or the [service worker's child or
198 spouse] employee's family member indicating the need for the number
199 of days of such leave shall be considered reasonable documentation. If
200 such leave is permitted under subdivision (3) of subsection (a) of this
201 section, a court record or documentation signed by [a service worker]
202 an employee or volunteer working for a victim services organization,
203 an attorney, a police officer or other counselor involved with the
204 [service worker] employee shall be considered reasonable
205 documentation.

206 (c) Nothing in sections 31-57s to 31-57w, inclusive, as amended by
207 this act, shall be deemed to require any employer to provide paid sick
208 leave for [a service worker's] an employee's leave for any purpose
209 other than those described in this section.

210 (d) Unless an employee policy or collective bargaining agreement
211 provides for the payment of accrued fringe benefits upon termination,
212 no [service worker] employee shall be entitled to payment of unused
213 accrued sick leave under this section upon termination of employment.

214 (e) Nothing in sections 31-57s to 31-57w, inclusive, as amended by
215 this act, shall be construed to prohibit an employer from taking
216 disciplinary action against [a service worker] an employee who uses
217 paid sick leave provided under sections 31-57s to 31-57w, inclusive, as
218 amended by this act, for purposes other than those described in this
219 section.

220 Sec. 4. Section 31-57u of the general statutes is repealed and the
221 following is substituted in lieu thereof (*Effective January 1, 2016*):

222 (a) Nothing in sections 31-57s to 31-57w, inclusive, as amended by
223 this act, shall be construed to (1) prevent employers from providing
224 more paid sick leave than is required under sections 31-57s to 31-57w,
225 inclusive, as amended by this act, (2) diminish any rights provided to
226 any employee [or service worker] under a collective bargaining
227 agreement, or (3) preempt or override the terms of any collective
228 bargaining agreement effective prior to January 1, 2012.

229 (b) Nothing in sections 31-57s to 31-57w, inclusive, as amended by
230 this act, shall be construed to prohibit an employer (1) from
231 establishing a policy whereby [a service worker] an employee may
232 donate unused accrued paid sick leave to another [service worker]
233 employee, and (2) who provides more paid sick leave than is required
234 under sections 31-57s to 31-57w, inclusive, as amended by this act, for
235 the purposes described in subdivision (1) of subsection (a) of section
236 31-57t, as amended by this act, from limiting the amount of such leave

237 [a service worker] an employee may use for other purposes.

238 (c) Any termination of [a service worker's] an employee's
239 employment by an employer, whether voluntary or involuntary, shall
240 be construed as a break in service. Should any [service worker]
241 employee subsequently be rehired by the employer following a break
242 in service, the [service worker] employee shall (1) begin to accrue sick
243 leave in accordance with section 31-57s, as amended by this act, and (2)
244 shall not be entitled to any unused hours of paid sick leave that had
245 been accrued prior to the [service worker's] employee's break in
246 service unless agreed to by the employer.

247 Sec. 5. Section 31-57w of the general statutes is repealed and the
248 following is substituted in lieu thereof (*Effective January 1, 2016*):

249 Each employer subject to the provisions of section 31-57s, as
250 amended by this act, shall, at the time of hiring, provide notice to each
251 [service worker] employee (1) of the entitlement to sick leave for
252 [service workers] employees, the amount of sick leave provided to
253 [service workers] employees and the terms under which sick leave
254 may be used, (2) that retaliation by the employer against the [service
255 worker] employee for requesting or using sick leave for which the
256 [service worker] employee is eligible is prohibited, and (3) that the
257 [service worker] employee has a right to file a complaint with the
258 Labor Commissioner for any violation of this section and of sections
259 31-57s to 31-57v, inclusive, as amended by this act. Employers may
260 comply with the provisions of this section by displaying a poster in a
261 conspicuous place, accessible to [service workers] employees, at the
262 employer's place of business that contains the information required by
263 this section in both English and Spanish. The Labor Commissioner
264 may adopt regulations, in accordance with chapter 54, to establish
265 additional requirements concerning the means by which employers
266 shall provide such notice. The Labor Commissioner shall administer
267 this section within available appropriations."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2016</i>	31-57r
Sec. 2	<i>January 1, 2016</i>	31-57s
Sec. 3	<i>January 1, 2016</i>	31-57t
Sec. 4	<i>January 1, 2016</i>	31-57u
Sec. 5	<i>January 1, 2016</i>	31-57w